APPEAL NO. 010553

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 26, 2001. The hearing officer held that the appellant's (claimant) injury did not extend to his left knee, and that he was not entitled to supplemental income benefits for his fourth quarter of eligibility.

The claimant has appealed these determinations as against the great weight and preponderance of the evidence, while the respondent (carrier) asks for affirmance.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in determining that the claimant's back injury did not extend to his left knee. The hearing officer has pointed out the evidence that he believes contradicts the claim of injury, including the passage of time. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.- Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.).

The hearing officer also did not err in rejecting the claimant's contention that he had the total inability to work. The qualifying period for the fourth quarter ran from July 20 to October 18, 2000. The claimant had not sought work and contended that Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §130.102(d)(4) (Rule 130.102(d)(4)) applied, which states that a claimant has satisfied the requirement to make a good faith search for employment commensurate with his ability to work if he or she:

> (4) has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work[.]

The hearing officer found a lack of a narrative, although he found that there was no other record during the quarter which showed an ability to work. This decision is sufficiently supported by the record. The hearing officer could also have concluded that any ability to work was influenced by the independent left knee injury.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company

v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). Because we do not believe this to be the case here, we affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge